

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOAN RICHARDSON

PLAINTIFF,

v.

CASE NO. 06-14947

COMMISSIONER OF SOCIAL
SECURITY,

HONORABLE SEAN F. COX

DEFENDANT.

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OPINION & ORDER

Plaintiff Joan Richardson (“Plaintiff”) filed this action on November 2, 2007, challenging the denial of her applications for Social Security Disability Income Benefits and Supplemental Security Income benefits.

Pursuant to an Order of Reference, Magistrate Judge Donald A. Scheer issued a Report and Recommendation on March 30, 2007, finding that substantial evidence did not exist on the record supporting the Commissioner’s decision that Plaintiff did not suffer from any severe impairments. Magistrate Judge Scheer recommended that the case be remanded to the Commissioner for further proceedings as to whether alternative jobs accommodating Plaintiff’s limitations existed in the national economy and allowing the Administrative Law Judge to consider additional medical records. This Court adopted the March 30, 2007 Report and Recommendation on May 8, 2007, and remanded the case to the Commissioner for further proceedings.

Thereafter, on May 15, 2007, Plaintiff filed an application seeking attorney fees of approximately \$7,000 under the Equal Access to Justice Act (“EAJA”). This Court then referred

the application to Magistrate Judge Scheer for a Report and Recommendation. Magistrate Judge Scheer issued a Report and Recommendation on June 13, 2007 (“the R&R”), recommending that Plaintiff’s application for attorney fees under the EAJA should be denied because the position of the Commissioner was substantially justified.

On June 22, 2007, Plaintiff filed timely objections to the R&R, asserting that Magistrate Judge Scheer “did not adequately address whether the ALJ’s position was substantially justified within the meaning of the EAJA.” (Pl.’s Objs. at 2). Having reviewed the R&R, however, the Court disagrees. The R&R notes that under the EAJA the court shall award attorney fees and expenses to a prevailing party (other than the United States) in any civil action brought against the United States, unless the position of the government was substantially justified. 28 U.S.C. §2412(d)(1)(A). Magistrate Judge Scheer then set forth the applicable standard for deciding whether fees should be awarded, correctly noting that the issue is basically a question of reasonableness. (*See* R&R at 3, citing *Pierce v. Underwood*, 487 U.S. 552, 565-66 (1988)). Magistrate Judge Scheer then thoroughly explained his reasons for determining that Defendant was not lacking substantial justification in deciding this case against Plaintiff on the record before the agency. (*See* R&R at 3-5). The Court finds no error in that analysis.

Accordingly, **IT IS ORDERED** that the Court hereby **ADOPTS** the June 13, 2007 R&R and **DENIES** Plaintiff’s application for attorney fees.

IT IS SO ORDERED.

S/Sean F. Cox
Sean F. Cox
United States District Judge

Dated: July 17, 2007

I hereby certify that a copy of the foregoing document was served upon counsel of record on July 17, 2007, by electronic and/or ordinary mail.

S/Jennifer Hernandez
Case Manager